

REMARKS

A. Claims

Claims 12-21 were pending. No claims have been amended. Claim 21 has been cancelled. Accordingly, claims 12-20 remain pending subsequent entry of the present amendment.

B. Election/Restriction

Applicant respectfully notes the Examiner's reasons for making the restriction requirement final. Applicant, however, for at least reasons expressed in the first response to the restriction requirement, continues to preserve the right to petition the Commissioner.

C. 35 U.S.C. §112 Rejections

The Examiner rejected claim 21 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees, however, as claim 21 has been cancelled, the rejection is believed moot.

D. 35 U.S.C. §103 Rejections

The Examiner has rejected claims 12-18 and 20 under 35 U.S.C. §103(a) as being unpatentable over RFC 2131-DHCP (hereinafter "DHCP") in view of U.S. Patent No. 6,697,649 to Bennett et al. (hereinafter "Bennett"). Applicant respectfully disagrees with these rejections.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner* et al., 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

Applicant respectfully submits the combination of references do not teach all the features of the claim as recited. For example, neither DHCP nor Bennett disclose, teach, or suggest, either separately or in combination, at least “wherein each node of the plurality of nodes determines which network address to assign to each record in a common predetermined manner” as recited in claim 12. The Examiner appears to agree that DHCP does not teach this feature (e.g., see Office Action mailed August 4, 2005 at page 4). The Examiner appears to point to Bennett for this teaching, however, Applicant respectfully submits that Bennett does not appear to teach at least each node determining which network address to assign.

Furthermore, the Office Action has not stated a prima facie case of obviousness for combining DHCP and Bennett. As stated in the MPEP §2142:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (emphasis added)

There is no teaching or suggestion to combine DHCP and Bennett either in the references or in the prior art. Furthermore, DHCP teaches away from Bennett. For example, DHCP teaches:

DHCP is built on a client-server model, where designated DHCP server hosts allocate network addresses and deliver configuration parameters to dynamically configured hosts. Throughout the remainder of this document, the term “server” refers to a host providing initialization parameters through DHCP, and the term “client” refers to a host requesting initialization parameters from a DHCP server (emphasis added) (DHCP, page 1, Introduction).

In direct contrast, Bennett teaches:

Systems embodying the present invention are decentralized... In particular, using such a system eliminates the need to contact and maintain a centralised (sic) database wherever a new node is encountered (Bennett, col. 2, lines 40-41).

Well known multicast addresses are used for pre-defined purposes and each of these are universally recognised (sic) by any node that may want to make use of it. Transient multicast allows dynamic creation of a multicast group, possibly for temporary collaboration or sharing between nodes. When a transient multicast group is created a random 30 byte address is nominated by one node for use by the group. Without any arbitration in the allocation of these addresses the statistical improbability of an addressing clash in both time and space is used to avoid conflicts. This address allocation strategy is used to serve the ad hoc nature of the mobile radio network (emphasis added) (Bennett, col. 4, lines 1-12).

DHCP teaches the use of designated servers to assign addresses, while Bennett teaches a decentralized, ad hoc network “without any arbitration” in allocating unknown addresses. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolchem Inc. v. Southern California Edison Co.*, 227 F.3d 1361 (Fed. Cir. 2000) an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination. Applicant respectfully asserts that there is no suggestion in the prior art for combining DHCP and Bennett, and that even were the two references combined, they would not produce the method of at least claims 12-18 and 20.

Applicant respectfully asserts claim 12 and claims dependent thereon are allowable for at least the above reasons. Applicant respectfully requests the Examiner withdraw the rejections to the claims.

E. Allowable Subject Matter

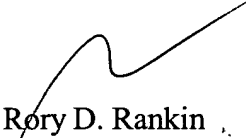
Claim 19 stands allowed.

F. Conclusion

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505\5957-33500\RDR.

Respectfully submitted,



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